

1 CENTER FOR BIOLOGICAL DIVERSITY  
2 John Buse (SBN 163156)  
3 Adam Keats (SBN 191157)  
4 351 California St., Suite 600  
5 San Francisco, California 94104  
6 Phone: 415-436-9682 Fax: 415-436-9683  
7 Email: jbuse@biologicaldiversity.org  
8 akeats@biologicaldiversity.org

RECEIVED  
OCT 01 2012  
DEPT. 86

FILED  
LOS ANGELES SUPERIOR COURT

OCT 15 2012  
JOHN A. CLARKE, CLERK  
BY N. DIGIAMBATTISTA, DEPUTY

6 WISHTOYO FOUNDATION/VENTURA COASTKEEPER  
7 Jason A. Weiner (SBN 259264)  
8 3875-A Telegraph Road, #423  
9 Ventura, CA 93003  
10 Phone: 805-823-3301 Fax: 805-258-5107  
11 Email: jweiner.venturacoastkeeper@wishtoyo.org

12 Attorneys for Petitioners

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 IN AND FOR THE COUNTY OF LOS ANGELES

14 CENTER FOR BIOLOGICAL DIVERSITY, ) Case No. BS 131347  
15 FRIENDS OF THE SANTA CLARA RIVER, )  
16 SANTA CLARITA ORGANIZATION FOR )  
17 PLANNING THE ENVIRONMENT, )  
18 WISHTOYO FOUNDATION/VENTURA )  
19 COASTKEEPER, and CALIFORNIA ) Department: 86  
20 NATIVE PLANT SOCIETY )

21 Petitioners, )

22 vs. )

23 CALIFORNIA DEPARTMENT OF FISH )  
24 AND GAME and DOES 1-20, )

25 Respondents, )

26 NEWHALL LAND AND FARMING )  
27 COMPANY and DOES 21-50, )

Real Parties in Interest. )

BY FAX

~~PROPOSED~~ JUDGMENT

Department: 86

[Proposed] Judgment

1 This matter came on regularly for hearing on September 20, 2012 in Department 86 of  
2 this Court, located at 111 North Hill Street, Los Angeles, California, 90012. John Buse of the  
3 Center for Biological Diversity and Jason Weiner of Wishtoyo Foundation/Ventura  
4 Coastkeeper appeared on behalf of Petitioners CENTER FOR BIOLOGICAL DIVERSITY,  
5 FRIENDS OF THE SANTA CLARA RIVER, SANTA CLARITA ORGANIZATION FOR  
6 PLANNING THE ENVIRONMENT, WISHTOYO FOUNDATION/VENTURA  
7 COASTKEEPER, and CALIFORNIA NATIVE PLANT SOCIETY (the "Petitioners"). John  
8 Mattox of the California Department of Fish and Game and Tina Thomas of Thomas Law  
9 Group appeared on behalf of Respondent CALIFORNIA DEPARTMENT OF FISH AND  
10 GAME (the "Department").<sup>1</sup> Mark Dillon of Gatzke, Dillon and Balance appeared on behalf  
11 of Real Party in Interest NEWHALL LAND AND FARMING COMPANY ("Newhall").

12 The Court having reviewed the record of the proceedings in this matter, the briefs  
13 submitted by counsel, and the arguments of counsel; the Court having issued a Statement of  
14 Intended Decision dated September 20, 2012; the Court having taken judicial notice of those  
15 items described in the Statement of Intended Decision; the Court having directed that  
16 Petitioners shall submit a proposed Statement of Decision; and the Court having directed that  
17 judgment and a peremptory writ of mandate issue in this proceeding,

18 IT IS ORDERED that:

19 1. Judgment be entered in favor of Petitioners in this proceeding on Petitioners'  
20 Petition for Writ of Mandate on the claims and for the reasons described in the Statement of  
21 Decision.

22 2. A peremptory writ of mandate directed to the Department issue under seal of  
23 this Court, ordering the Department to:

24 a. Set aside its approvals of the Newhall Ranch Resource Management  
25 and Development Plan, Spineflower Conservation Plan, Multi-Species Incidental Take  
26

27 <sup>1</sup> Pursuant to AB 2402, signed by the Governor on September 25, 2012, the Department of Fish  
and Game has been renamed as the Department of Fish and Wildlife.

1 Permit No. 2081-2008-013-05, Spineflower Incidental Take Permit No. 2081-2008-  
2 012-05, and Master Streambed Alteration Agreement No. 1600-2004-0016-R5 (the  
3 "Project").

4 b. Set aside its certification of the Final Environmental Impact Report  
5 prepared in connection with the Newhall Ranch Resource Management and  
6 Development Plan and Spineflower Conservation Plan, State Clearinghouse No.  
7 2000011025 (the "EIR").

8 c. Set aside its Findings, the Statement of Overriding Considerations, and  
9 the Mitigation and Monitoring Program adopted in connection with the Newhall  
10 Ranch Resource Management and Development Plan, Spineflower Conservation Plan,  
11 Multi-Species Incidental Take Permit No. 2081-2008-013-05, Spineflower Incidental  
12 Take Permit No. 2081-2008-012-05, Master Streambed Alteration Agreement No.  
13 1600-2004-0016-R5, and the EIR.

14 3. Pursuant to Public Resources Code § 21168.9(a)(2), because specific Project  
15 activity or activities would prejudice the consideration or implementation of particular  
16 mitigation measures or alternatives to the Project, the Department, Newhall, and their  
17 successors are enjoined from proceeding with any and all Project activities that could result in  
18 an adverse change or alteration to the physical environment, unless and until such time as the  
19 Department has certified an environmental impact report that complies with the California  
20 Environmental Quality Act by correcting the deficiencies identified in the Court's Statement  
21 of Decision and in this Judgment. "Project activities" include all activities authorized under  
22 the Newhall Ranch Resource Management and Development Plan, Spineflower Conservation  
23 Plan, Multi-Species Incidental Take Permit No. 2081-2008-013-05, Spineflower Incidental  
24 Take Permit No. 2081-2008-012-05, and Master Streambed Alteration Agreement No. 1600-  
25 2004-0016-R5.

26 4. The Court shall retain jurisdiction over the proceedings pursuant to Public  
27

1 Resources Code section 21168.9(b). Nevertheless, the Court intends this to be a final,  
2 appealable judgment.

3 5. Pursuant to Public Resources Code section 21168.9(c), the Court does not  
4 direct the Department to exercise its discretion in any particular way.

5 6. Petitioners are prevailing parties entitled to apply for attorney fees through  
6 appropriate noticed motions after entry of this Judgment. This Court retains jurisdiction to  
7 hear such motions and determine entitlement to, and amount of, such fees, if any, pursuant to  
8 them. If such a motion is granted, this judgment will be amended to award attorneys' fees  
9 pursuant to Code of Civil Procedure Section 1021.5.

10 7. Petitioners are prevailing parties entitled to seek costs pursuant to Code of  
11 Civil Procedure sections 1032 and 1033.5.

12 8. The Department shall file a return to the peremptory writ no later than 60 days  
13 after the date of the issuance of the peremptory writ which shall state that it has complied with  
14 said writ or that an appeal from the judgment has or will be filed. Any objections to the return  
15 shall be filed no later than 30 days after service of the return.

16  
17  
18  
19 DATED: OCTOBER 15, 2012

20   
21 \_\_\_\_\_  
22 ANN I. JONES, JUDGE OF THE SUPERIOR COURT  
23  
24  
25  
26  
27



SHORT TITLE: Center for Biological Diversity et al. v. Cal. Dept of Fish and Game, et al.

CASE NUMBER  
BS131347

**ATTACHMENT TO PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL (PERSONS SERVED)**

(This Attachment is for use with form POS-030)

**NAME AND ADDRESS OF EACH PERSON SERVED BY MAIL:**

<u>Name of Person Served</u>	<u>Address (number, street, city, and zip code)</u>
Thomas Gibson, General Counsel John H. Mattox, Senior Staff Counsel	Office of the General Counsel, Cal. Dept of Fish and Game 1416 Ninth St., 12th Floor, Sacramento, CA 95814
Mark J. Dillon, Danielle K. Morone, Aarti S. Kewalramani	Gatzke Dillon & Balance LLP 1525 Faraday Ave., Suite 150, Carlsbad CA 92008
Patrick G. Mitchell Meghan M. Dunnagan	Downey Brand LLP 1420 Rocky Ridge Drive, Suite 250, Roseville, CA 95661
Tina A. Thomas, Ashle T. Crocker, Amy R. Higuera	Thomas Law Group 455 Capitol Mall, Suite 801, Sacramento, CA 95814
BY ELECTRONIC MAIL	
John H. Mattox	jmattox@dfg.ca.gov
Mark J. Dillon	mdillon@gdandb.com
Patrick G. Mitchell	pmitchell@downeybrand.com
Tina A. Thomas	tthomas@thomaslaw.com